



DIVISION OF  
ENFORCEMENT

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

December 5, 2023

**VIA ECF**

Hon. Paul A. Engelmayer  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**Re: *SEC v. SolarWinds Corp., et al.* 23-cv-09518-PAE  
Joint Letter Motion for Scheduling Order**

Dear Judge Engelmayer:

The parties in this case, Plaintiff Securities and Exchange Commission (“SEC”), and Defendants SolarWinds Corp. (“SolarWinds”) and Timothy G. Brown (“Brown”) are writing jointly to request that the Court enter a scheduling order governing the anticipated Rule 12(b)(6) motion to dismiss in this case. The parties have agreed on the proposed motion schedule below, and in doing so have considered scheduling orders that the Court has entered in prior cases.

The parties have also reviewed the Court’s Individual Rules and Practices in Civil Cases and model Civil Case Management Plan, and will be prepared to address a scheduling order governing the remainder of the case at the Initial Case Management Conference. Generally, the parties believe that discovery should begin while the motion to dismiss is being briefed and considered, and the SEC is already in the process of voluntarily producing to the Defendants the materials the SEC gathered during its investigation.

Proposed Briefing Schedule for Motion to Dismiss:

<b>Filing</b>	<b>Due Date</b>
Motion and opening brief	January 26, 2024
Any amici briefs with requests for leave to file	February 2, 2024
Amended Complaint, if any	February 16, 2024
Opposition brief if no Amended Complaint	March 8, 2024
Reply brief if no Amended Complaint	March 22, 2024
If there is an Amended Complaint, new motion to dismiss (or notice that standing by previous motion)	March 22, 2024
If there is an Amended Complaint, Opposition brief	April 19, 2024
If there is an Amended Complaint, Reply brief	May 3, 2024

The parties further request that rather than filing separate briefs on behalf of each Defendant and separate opposition briefs from the SEC (all limited to 25 pages each), it is more efficient in this case to have a single omnibus Defendants' brief of no more than 40 pages, an omnibus opposition brief of no more than 50 pages, and an omnibus reply brief of no more than 15 pages. The time for the SEC's opposition brief, and the extra page length in the SEC's opposition brief, are to allow for responses to amici briefs, which may be filed in this case. If there are more than two amici briefs, the SEC reserves the right to seek additional pages. Conversely, if there are no amici briefs, the SEC will limit its opposition brief to 40 pages and endeavor to file it sooner, and the Defendants' reply brief would be due two weeks after the SEC files its opposition brief.

Respectfully submitted,

/s/ Christopher M. Bruckmann

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